

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

American Family Mutual Insurance)  
Company; American Standard Insurance)  
Company of Wisconsin,

Plaintiffs,

vs.

Crystal Herndon; Robert Herndon; Cythia)  
Herndon; Neela B. Desai,

Defendants.

No. CV 04-1847-PHX-JAT

**ORDER**

Pending before this Court is Plaintiffs' motion for summary judgment. Defendant has responded to the motion for summary judgment, and alternatively sought relief pursuant to Rule 56(f) if the Court is inclined to grant Plaintiffs' motion.

The Court will not consider the summary judgment motion twice, as Defendant would have it. The Court seeks to have a single round of fully completed briefing on a dispositive motion, as evidenced by the Rule 16 scheduling order which permits each party only one motion for summary judgment. In this case, Defendant asserts that if the Court intends to grant Plaintiffs' motion, the Court should allow discovery to be completed and supplements to be filed before issuing, in essence, a second ruling on the motion. The Court will not proceed under such an inefficient system.

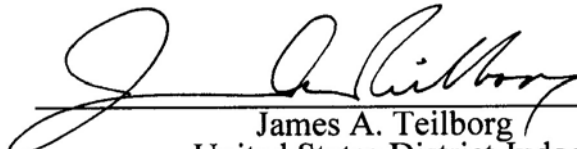
Plaintiffs argue that Rule 56(f) relief is unnecessary in this case and that the Court can decide the motion without any further evidence. In this circuit, Rule 56(f) is construed very

1 liberally. Specifically, if a party objects, generally the Court will not grant a motion for  
2 summary judgment before discovery can be completed. *See generally* FED.R.CIV.P. 56(f);  
3 *Thi-Hawaii, Inc. v. First Commerce Financial Corp.*, 627 F.2d 991, 994 (9<sup>th</sup> Cir. 1980).

4 In this case, the deadline for completing discovery is December 2, 2005. The Court  
5 will allow discovery to be completed before it undertakes to rule on the motion for summary  
6 judgment. Additionally, because the Court only wants a single set of briefing on the motion,  
7 the Court will deny the currently pending motion, without prejudice. After the close of  
8 discovery, Plaintiffs may re-file the motion (including any additional evidence they deem  
9 appropriate), and Defendant shall file a single response. Supplements will not be permitted.  
10 Accordingly,

11 **IT IS ORDERED** that Defendant's request for relief pursuant to Rule 56(f) is granted  
12 as follows: Plaintiffs' motion for summary judgment (Doc. #18) is denied without prejudice  
13 to re-file after the close of discovery.

14 Dated this 7<sup>th</sup> day of October, 2005.

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James A. Teilborg  
United States District Judge